

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PATRICK W. NELSON AND COLETTE
RAPP,

Plaintiffs,

v.

US FEDERAL MARSHALL et al.,

Defendants.

CASE NO. 3:16-cv-05680-BHS-JRC

REPORT AND RECOMMENDATION

NOTED FOR: JANUARY 13, 2017

The District Court has referred this 42 U.S.C. §1983 action to United States Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4.

On August 3, 2016, plaintiff Patrick Weldon Nelson, Jr., proceeding *pro se*, filed a motion to proceed *in forma pauperis* ("IFP motion") and proposed civil rights complaint under 42 U.S.C. § 1983. Dkts. 1, 1-1. On September 20, 2016, the Court ordered plaintiff to show cause or amend his complaint. Dkt. 8. On November 10, 2016, plaintiff Nelson filed a proposed amended complaint, through counsel, and added plaintiff Colette Rapp to this cause of action. Dkt. 12. On November 22, 2016, the Court ordered plaintiffs to either pay the \$400 filing fee or plaintiff Rapp shall submit

an IFP application. Dkt. 14. On December 5, 2016, plaintiffs paid the \$400 filing fee, and thus, the Court should deny the pending IFP motion (Dkt. 1) as moot.

DISCUSSION

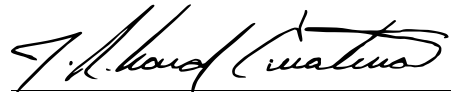
A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), cert. denied, 375 U.S. 845 (1963). Plaintiff paid the \$400.00 filing fee on December 5, 2016. *See* Dkt. entry dated December 5, 2016. Therefore, the IFP motion (Dkt. 1) is moot.

CONCLUSION

Because plaintiffs paid the filing fee, the undersigned recommends that the Court deny the pending IFP motion (Dkt. 1) as moot.

Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), plaintiff shall have fourteen (14) days from service of this Report and Recommendation to file written objections thereto. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the Clerk is directed set this matter for consideration on **January 13, 2017**, as noted in the caption.

Dated this 16th day of December, 2016.



J. Richard Creatura
United States Magistrate Judge